

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF OHIO

CHRISTOPHER M. BAIR,

Plaintiff,

V.

RONALD HEMELGARN, et al.,

Defendants.

CASE NO. 5:12 CV 2922

JUDGE JOHN R. ADAMS

MEMORANDUM OF OPINION  
AND ORDER

On November 27, 2012, plaintiff *pro se* Christopher M. Bair filed this *in forma pauperis* action against Ronald Hemelgarn and Ronda Hemelgarn. For the reasons stated below, this action is dismissed pursuant to 28 U.S.C. § 1915(e).

Although *pro se* pleadings are liberally construed, *Boag v. MacDougall*, 454 U.S. 364, 365 (1982) (per curiam), the district court is required to dismiss an action under 28 U.S.C. § 1915(e) if it fails to state a claim upon which relief can be granted, or if it lacks an arguable basis in law or fact.<sup>1</sup> *Neitzke v. Williams*, 490 U.S. 319 (1989); *Hill v. Lappin*, 630 F.3d 468, 470 (6<sup>th</sup> Cir. 2010).

A cause of action fails to state a claim upon which relief may be granted when it lacks

<sup>1</sup> An *in forma pauperis* claim may be dismissed *sua sponte*, without prior notice to the plaintiff and without service of process on the defendant, if the court explicitly states that it is invoking section 1915(e) [formerly 28 U.S.C. § 1915(d)] and is dismissing the claim for one of the reasons set forth in the statute. *Chase Manhattan Mortg. Corp. v. Smith*, 507 F.3d 910, 915 (6<sup>th</sup> Cir. 2007); *Gibson v. R.G. Smith Co.*, 915 F.2d 260, 261 (6<sup>th</sup> Cir. 1990); *Harris v. Johnson*, 784 F.2d 222, 224 (6<sup>th</sup> Cir. 1986).

“plausibility in the complaint.” *Bell At. Corp. V. Twombly*, 550 U.S. 544, 564 (2007). A pleading must contain a “short and plain statement of the claim showing that the pleader is entitled to relief.” *Ashcroft v. Iqbal*, 556 U.S. 662, 677-78 (2009). The factual allegations in the pleading must be sufficient to raise the right to relief above the speculative level on the assumption that all the allegations in the complaint are true. *Twombly*, 550 U.S. at 555. The plaintiff is not required to include detailed factual allegations, but must provide more than “an unadorned, the-defendant-unlawfully-harmed-me accusation.” *Iqbal*, 556 U.S. at 678 (2009). A pleading that offers legal conclusions or a simple recitation of the elements of a cause of action will not meet this pleading standard. *Id.*

Even construing the complaint liberally in a light most favorable to the plaintiff, *Brand v. Motley*, 526 F.3d 921, 924 (6<sup>th</sup> Cir. 2008), it does not contain allegations which are intelligible to this court. The complaint is therefore appropriately subject to summary dismissal. *See, Lillard v. Shelby County Bd. of Educ.*, 76 F.3d 716 (6<sup>th</sup> Cir. 1996)(court not required to accept summary allegations or unwarranted legal conclusions in determining whether complaint states a claim for relief). On February 4, 2013, the plaintiff filed a motion to amend his complaint. This proposed amendment, however, only seeks to add defendants, but does nothing to cure the failings of his initial complaint. On February 5, 2013, the plaintiff filed “a motion to amend and remove defendants to be added to deposition.” Similarly, this motion does not cure the failings of his initial complaint.

Accordingly, the request to proceed *in forma pauperis* is granted, and this action is dismissed. Further, the court certifies, pursuant to 28 U.S.C. § 1915(a)(3), that an appeal from this decision could not be taken in good faith.

Date: February 7, 2013

s/John R. Adams

---

JOHN R. ADAMS  
UNITED STATES DISTRICT COURT